

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DUSTIN J. TRIMM,

Plaintiff,

-against-

GREEN HAVEN CORRECTIONAL
FACILITY,

Defendant.

24-CV-2282 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

On March 25, 2024, the court received from Plaintiff, who currently is incarcerated at Green Haven Correctional Facility (“Green Haven”), a letter that was addressed to the undersigned. Because the letter suggested that Plaintiff intended to bring civil claims, the Clerk of Court opened the submission as a new civil action. By order dated April 1, 2024, the Court directed Plaintiff, within 30 days, to either pay the \$405.00 in fees required to file a civil action in this court or, to request authorization to proceed *in forma pauperis* (“IFP”), submit an IFP application and a prisoner authorization. (ECF 3.)

On April 8, 2024, however, the court received from Plaintiff an actual complaint against the New York State Department of Corrections and Community Supervision (“DOCCS”) and several correctional officials arising out of the same events described in Plaintiff’s letter.¹ *See Trimm v. NYSDOCCS*, ECF 1:24-CV-2737, 1 (S.D.N.Y. filed Apr. 8, 2024). In light of that submission, by order dated April 16, 2024, the Court determined that no useful purpose would be served by the continuation of this duplicate lawsuit, and dismissed this action without prejudice

¹ Plaintiff submitted an IFP application and prisoner authorization with the new complaint. By order dated April 12, 2024, the Court granted Plaintiff leave to proceed IFP. *See* ECF 1:24-CV-2737, 5.

to Plaintiff's pending case under docket number 24-CV-2737. (ECF 4.) The Court further terminated all pending matters in this case, and directed the Clerk of Court not to charge Plaintiff the \$405.00 in filing fees for this action, and the Warden or Superintendent having custody of Plaintiff not to deduct or encumber funds from Plaintiff's prison trust account for this lawsuit.

On April 19, 2024, however, the court received from Plaintiff a check for \$405.00 in payment of the fees. Plaintiff apparently submitted the payment before receiving the Court's April 16, 2024 order dismissing this case. The Court therefore directs the Clerk of Court issue to Plaintiff a refund of the \$405.00 payment submitted in this closed case.

CONCLUSION

The Court directs the Clerk of Court to refund to Plaintiff the \$405.00 payment for the filing fees submitted in this closed case. All other pending matters in this case are terminated.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: April 23, 2024
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge